



NEWS

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SUMMARY OF CASES ACCEPTED DURING THE WEEK OF NOVEMBER 25, 2002

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#02-189 Donaldson v. National Marine, Inc., S110301. (A092876, A093705; 101 Cal.App.4th 552.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court limited review to the following issue: Do California state courts have jurisdiction over plaintiff's claim under the Jones Act (46 U.S.C. § 688) for death of a seaman outside California territorial waters?

#02-190 People v. Gregory, S110450. (F037202; 101 Cal.App.4th 1149.) Petition for review after the Court of Appeal reversed an order granting a writ of habeas corpus. This case includes the following issue: Does the doctrine of imperfect self-defense apply where the defendant's actual but unreasonable belief in the need to defend himself is based on a delusion resulting from mental illness?

#02-191 Travis v. County of Santa Cruz, S109597. (H021541; 100 Cal.App.4th 609.) Petition for review after the Court of Appeal affirmed the judgment in a proceeding for writ of mandate. This case includes the following issue: What statute of limitations applies to an action by a property owner challenging the validity of conditions that have been imposed on a development permit pursuant to an allegedly invalid local ordinance, and when does the statute of limitations begin to run?

(over)

#02-192 People v Williams, S110377. (D038602; unpublished opinion.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to the following issue: Where a defendant is sentenced in two different cases under the three strikes law, can the enhancements for prior serious felony convictions under Penal Code section 667, subdivision (a)(1), be imposed on the sentence in each case or only once (see People v Tassell (1984) 36 Cal.3d 77)?

#02-193 In re Morrall, S111164. (C040322; 102 Cal.App.4th 280, mod. 102 Cal.App.4th 1061a.) Petition for review after the Court of Appeal denied a petition for writ of habeas corpus. The court ordered briefing deferred pending decision in In re Rosenkrantz, S104701 (#02-68), which includes the following issues: (1) When the Governor, pursuant to Penal Code section 3041.2, determines that a prisoner should not be released on parole, reversing a contrary decision of the Board of Prison Terms, is the Governor's decision subject to judicial review? (2) If so, what is the standard of review for such a decision?

#02-194 In re Oscar R., S110830. (B151004; 101 Cal.App.4th 1370.) Petition for review after the Court of Appeal affirmed an order in a wardship proceeding. The court ordered briefing deferred pending decision in John L. v. Superior Court, S098158 (#01-83), which presents the following issue: Does the prohibition against ex post facto laws preclude application of amendments to Welfare and Institutions Code section 777(a), changing the quantum and nature of the proof required to revoke juvenile probation, where the conduct underlying the wardship determination occurred before the amendments but the conduct leading to revocation occurred after the effective date of the amendments?

#02-195 In re Rene O., S110636. (H023439; unpublished opinion.) Petition for review after the Court of Appeal affirmed orders in a wardship proceeding. The court ordered briefing deferred pending decision in Robert L. v. Superior Court, S100359 (#01-144), and In re Walter S., S099120 (#01-119). Robert L. presents the following issue: Does Penal Code section 186.22, subdivision (d), as amended by the Gang Violence and Juvenile Crime Prevention Initiative (Prop. 21, Primary Elec. (Mar. 7, 2000)), apply to

any misdemeanor and any felony committed for the benefit of a criminal street gang, or only to those crimes expressly punishable either as a felony or as a misdemeanor?

Walter S. includes the following issue: Does a requirement of registration as a gang offender (Pen. Code, § 186.30) constitute “punishment” for purposes of the cruel or unusual punishment provision of the state Constitution (Cal. Const., art. I, § 7)?

#02-196 McMeans v. Scripps Health, Inc., S109573. (D035486; 100 Cal.App.4th 507.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. The court ordered briefing deferred pending decision in Olszewski v. ScrippsHealth, S098409 (#01-105), which presents the following issues:(1) Is Welfare and Institutions Code section 14124.791, which permits a healthcare provider that has provided services to a Medi-Cal patient to impose a lien upon a judgment obtained by the patient from a third party tortfeasor, preempted by federal law? (2) If so, can such a patient maintain an action against a healthcare provider for violation of the Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.) based upon the provider’s imposition of such a lien before the statute had been held invalid?

#02-197 Regional Parking, Inc. v. Department of Motor Vehicles, S110870. (C038408; 102 Cal.App.4th 259.) Petition for review after the Court of Appeal reversed the judgment in a proceeding for writ of administrative mandate. The court ordered briefing deferred pending decision in Ticket Track California, Inc. v. Department of Motor Vehicles, S107271 (#02-128), which presents the following issue: Does an attorney “represent his or her client in a criminal or civil action which directly involves the use of the motor vehicle,” entitling the attorney to confidential home addresses from the Department of Motor Vehicles under Vehicle Code section 1808.22, subdivision (c), if the information is sought in order to send out bill collection letters for a client that is engaged in the business of collecting late parking fees?

#02-198 U.K. Abba Products, Inc. v. Employers Ins. of Wausau, S110446. (G028347; unpublished opinion.) Petition for review after the Court of Appeal affirmed the summary judgment in a civil action. The court ordered briefing deferred pending decision in Hameid v. National Fire Ins. of Hartford, S104157 (#02-62), which includes the following issue: Does an insurer have a duty, under the “advertising injury” coverage

of a comprehensive general liability insurance policy, to defend its insured against an action alleging that the insured engaged in unfair competition by obtaining a competitor's customer list and customer preference information and then soliciting those customers?

DISPOSITIONS

The following cases were transferred to the Court of Appeal for reconsideration in light of People v. Acosta (2002) 29 Cal.4th 105:

#02-63 People v. Cervantes, S104974.

#00-105 People v. Graves, S089533.

#00-155 People v. Howard, S091943.

#01-153 People v. Llavet, S100614.

#01-87 People v. Porter, S097459.

#02-79 People v. Snow, S105345.

The following cases were dismissed and remanded to the Court of Appeal:

#99-132 People v. Davis, S079736.

#00-138 People v. Diaz, S091158.